

Todd M. Friedman, Esq. (SBN: 216752)
Suren N. Weerasuriya, Esq. (SBN: 278512)
Adrian R. Bacon, Esq. (SBN: 280332)
Law Offices of Todd M. Friedman, P.C.
324 S. Beverly Dr., #725
Beverly Hills, CA 90212
Phone: 877-206-4741
Fax: 866-633-0228
tfriedman@attorneysforconsumers.com
sweerasuriya@attorneysforconsumers.com
abacon@attorneysforconsumers.com
Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

DEMAND FOR JURY TRIAL

Defendant.

1 Plaintiff Jessika Alexus (“Plaintiff”) brings this class action against
2 Defendants I.C.Q. SEARCH & RECOVERY, INC. (“Defendant”), and DOES 1-
3 10 (collectively, “Defendants”) on behalf of herself and all others similarly
4 situated to obtain damages, restitution and injunctive relief for the Class, as
5 defined, below, from DEFENDANTS. Plaintiff makes the following allegations
6 upon information and belief, except as to her own actions, the investigation of her
7 counsel, and the facts that are a matter of public record:
8

9

10 **I. INTRODUCTION**

11 1. This is a Class Action for damages for Defendants’ violations of the
12 Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (hereinafter
13 “FDCPA”), and the Rosenthal Fair Debt Collection Practices Act, Cal Civ Code §
14 1788, *et seq.* (hereinafter “RFDCPA”), both of which prohibit debt collectors
15 from engaging in abusive, deceptive, and unfair practices.
16

17

18 **II. JURISDICTION**

19 2. This Court has federal question jurisdiction because this case arises
20 out of violations of federal law. 47 U.S.C. § 227(b); *Mims v. Arrow Fin. Servs.,*
21 *LLC*, 132 S. Ct. 740 (2012).

22 3. Venue is proper in the United States District Court for the Northern
23 District of California pursuant to 18 U.S.C. § 1391(b) and 1441(a) because
24 Defendant is subject to personal jurisdiction in the County of Contra Costa, State

1 of California and Plaintiff resides within the County of Contra Costa, State of
2 California.
3

4 **III. PARTIES**

5 4. Plaintiff, Jessika Alexus (“Plaintiff”), is a natural person residing in
6 Contra Costa County in the state of California, and is a “consumer” as defined by
7 the FDCPA, 15 U.S.C. §1692a(3) and is a “debtor” as defined by Cal Civ Code
8 §1788.2(h).
9

10 5. At all relevant times herein, Defendant, I.C.Q. Search & Recovery,
11 Inc. (“Defendant”), was a company engaged, by use of mail and telephone, in the
12 business of collecting a debt from Plaintiff, which qualifies as a “debt,” as defined
13 by 15 U.S.C. §1692a(5), and a “consumer debt,” as defined by Cal Civ Code
14 §1788.2(f). Defendant regularly attempts to collect debts alleged to be due to
15 another, and therefore is a “debt collector” as defined by the FDCPA, 15 U.S.C.
16 §1692a(6), and RFDCPA, Cal Civ Code §1788.2(c).
17

18 6. The above named Defendant, and its subsidiaries and agents, are
19 collectively referred to as “Defendants.” The true names and capacities of the
20 Defendants sued herein as DOE DEFENDANTS 1 through 10, inclusive, are
21 currently unknown to Plaintiff, who therefore sues such Defendants by fictitious
22 names. Each of the Defendants designated herein as a DOE is legally responsible
23 for the unlawful acts alleged herein. Plaintiff will seek leave of Court to amend
24
25
26
27
28

1 the Complaint to reflect the true names and capacities of the DOE Defendants
2 when such identities become known.
3

4 7. Plaintiff is informed and believes that at all relevant times, each and
5 every Defendant was acting as an agent and/or employee of each of the other
6 Defendants and was acting within the course and scope of said agency and/or
7 employment with the full knowledge and consent of each of the other Defendants.
8 Plaintiff is informed and believes that each of the acts and/or omissions
9 complained of herein was made known to, and ratified by, each of the other
10 Defendants.
11
12

13 **IV. FACTUAL ALLEGATIONS**

14 8. Beginning on or around September 3, 2013, and at various other
15 times prior to the filing of the instant Complaint, including within the one year
16 preceding the filing of this Complaint, Defendant began contacting Plaintiff in an
17 attempt to collect an alleged outstanding debt.
18
19

20 9. During this process, on or around September 3, 2013, Defendant
21 sent a dunning letter to Plaintiff concerning the alleged debt owed. On or around
22 October 30th, 2013, Defendant sent a second dunning letter Plaintiff concerning
23 the alleged debt owed.
24
25

26 10. The October 30th, 2013, letter stated that it was a "Final Collection
27 Notice!!!" The letter also stated the following:
28

1 Your continued lack of response is disturbing to us because your
2 account is seriously delinquent. There may be an explanation for
3 your silence, but until we hear from you we can only report to our
4 client that you have ignored our notices. Therefore, we must inform
5 you that if the payment of \$123.95[,] this includes interest [,] is not
6 received in our office within TEN (10) days of the date of this
7 notice[,] collection efforts will be pursued that could result in serious
8 consequences to you.

9 11. The letter from Defendant led Plaintiff to believe that legal
10 proceedings were imminent concerning this matter. Furthermore, the use of the
11 phrase "serious consequences" led Plaintiff to believe that legal action was
12 pending.

13 12. To date, no legal action has been taken against Plaintiff.

14 13. Furthermore, Defendant attempted to collect interest on Plaintiff's
15 alleged debt. The dunning letter sent to Plaintiff from Defendant, dated
16 September 4, 2013, stated that Plaintiff had been charged \$4.39 of interest. A
17 second dunning letter, dated October 30, 2014 (approximately fifty-five [55] days
18 later) from Defendant stated that Plaintiff owed \$6.35 of interest.
19

20 14. Plaintiff was informed thereafter that no more interest would be
21 charged to this debt.

22 15. Defendant's conduct violated the FDCPA and the RFDCPA in
23 multiple ways, including but not limited to:

- 24 27 a) Falsely representing the character, amount, or legal
25 status of Plaintiff's debt (§1692e(2)(A));
26

- 1 b) Falsely representing that a legal proceeding has been, is
2 about to be, or will be instituted unless payment of a
3 consumer debt is made(Cal Civ Code §1788.13(j));
- 4 c) Threatening Plaintiff that nonpayment of Plaintiffs debt
5 may result in the arrest of Plaintiff or the seizure,
6 garnishment, attachment or sale of any property or the
7 garnishment or attachment of wages of Plaintiff, where
8 such action was not in fact contemplated by the debt
9 collector and permitted by the law (Cal Civ Code
10 §1788.10(e));
- 11 d) Falsely representing or implying that nonpayment of
12 Plaintiffs debt would result in the seizure, garnishment,
13 attachment, or sale of Plaintiffs property or wages,
14 where such action is not lawful or Defendant did not
15 intend to take such action(§1692e(4));
- 16 e) Threatening to take an action against Plaintiff that
17 cannot be legally taken or that was not actually intended
18 to be taken (§1692e(5));
- 19 f) Using false representations and deceptive practices in
20 connection with collection of an alleged debt from
21 Plaintiff (§ 1692e(10));
- 22 g) Using unfair or unconscionable means against Plaintiff
23 in connection with an attempt to collect a debt (§
24 1692f);
- 25 h) Collecting an amount from Plaintiff that is not expressly
26 authorized by the agreement creating the debt (§
27 1692f(1));
- 28 i) Collecting an amount from Plaintiff that is not permitted
by law (§ 1692f(1)); and

- 1 j) Threatening to take an action against Plaintiff that is
2 prohibited by § 1788 of the California Civil Code (Cal.
3 Civ. Code § 1788.10(e)).

4 16. As a result of the above violations of the FDCPA and RFDCPA,
5 Plaintiff and members of the Class suffered and continue to suffer injury to
6 Plaintiff's and Class members' feelings, personal humiliation, embarrassment,
7 mental anguish and emotional distress, and Defendants are liable to Plaintiff and
8 Class members for actual damages, statutory damages, and costs and attorney's
9 fees.

12 **CLASS ACTION ALLEGATIONS**

14 17. Plaintiff incorporates all preceding paragraphs as though fully set
15 forth herein.

16 18. Plaintiff brings this action on behalf of himself and all others
17 similarly situated as a class action, pursuant to *F.R.C.P. Rule 23*. The class
18 which Plaintiff seeks to represent is composed of and defined as follows:

20 Plaintiff Class:

21 All persons within the United States who received a dunning letter from
22 Defendant, its agent/s and/or employee/s, at their address, within one (1)
23 calendar year from the filing of the instant complaint, wherein Defendant
24 attempted to collect on a purported outstanding debt.

25 California Subclass:

26 All members of the Plaintiff Class whose reside in California.

28 19. Excluded from the Class are Defendants; officers, directors, and

1 employees of Defendants; any entity in which Defendants have a controlling
2 interest; the affiliates, legal representatives, attorneys, heirs, and assigns of the
3 Defendants

4
5 20. The Class Period is the period from one year prior to the date this
6 Complaint was filed, through and including the date judgment is rendered in this
7 matter.

8
9 21. This action is brought and may be properly maintained as a class
10 action. This action satisfies the numerosity, typicality, adequacy, predominance
11 and superiority requirements for a class action.

12
13 22. The members of the Class are so numerous that the joinder of all
14 members is impractical. While the exact number of Class members is unknown to
15 Plaintiff at this time, based on information and belief, it is in the thousands, if not
16 more. Thus, this matter should be certified as a Class action to assist in the
17 expeditious litigation of this matter.

18
19
20 23. Plaintiff and members of the Class were harmed by the acts of
21 Defendant in at least the following ways: Defendant, either directly or through its
22 agents, illegally contacted Plaintiff and the Class members via US Mail, thereby
23 threatening Plaintiff and the Class members with false representations of legal
24 proceedings, and invading the privacy of said Plaintiff and the Class members.
25 Plaintiff and the Class members were damaged thereby.

1 24. This suit seeks only damages and injunctive relief for recovery of
2 economic injury on behalf of the Class, and it expressly is not intended to request
3 any recovery for personal injury and claims related thereto. Plaintiff reserves the
4 right to expand the Class definition to seek recovery on behalf of additional
5 persons as warranted as facts are learned in further investigation and discovery.
6
7

8 25. The joinder of the Class members is impractical and the disposition
9 of their claims in the Class action will provide substantial benefits both to the
10 parties and to the Court. The Class can be identified through Defendant's records
11 or Defendant's agents' records.
12
13

14 26. Common questions of fact and law exist as to all members of the
15 Class which predominate over any questions affecting only individual members
16 of the Class. These common legal and factual questions, which do not vary
17 between Class members, and which may be determined without reference to the
18 individual circumstances of any Class members, include, but are not limited to,
19 the following:
20
21

- 22 a. Whether Defendant had a standard policy and/or practice of
23 communicating with Class members in connection with the
24 collection of an alleged debt wherein Defendant represents
25 that legal proceedings were imminent, despite having no
26 intention of proceeding with legal action;
27
28

- b. Whether Defendant had a standard policy and/or practice of communicating with Class members in connection with the collection of an alleged debt wherein Defendant has attempted to collect interest on said debt by way of a dunning letter;
 - c. Whether Defendant had a standard policy and/or practice of communicating with California Class members in connection with the collection of an alleged debt wherein Defendant represents that legal proceedings were imminent, despite having no intention of proceeding with legal action;
 - d. Whether Defendant had a standard policy and/or practice of communicating with California Class members in connection with the collection of an alleged debt wherein Defendant has attempted to collect interest on said debt by way of a dunning letter;
 - e. The nature and extent of damages and other remedies to which the conduct of Defendant entitles the California Class members;
 - f. Whether Plaintiff and the Class members were damaged thereby, and the extent of damages for such violation; and
 - g. Whether Defendant and its agents should be enjoined from

engaging in such conduct in the future.

27. As a person that received dunning letters with the aforementioned language from Defendant, Plaintiff is asserting claims that are typical of the Class. Plaintiff will fairly and adequately represent and protect the interests of the Class in that Plaintiff has no interests antagonistic to any member of the Class.

28. Plaintiff and the members of the Class have all suffered irreparable harm as a result of the Defendant's unlawful and wrongful conduct. Absent a class action, the Class will continue to face the potential for irreparable harm. In addition, these violations of law will be allowed to proceed without remedy and Defendant will likely continue such illegal conduct. Because of the size of the individual Class member's claims, few, if any, Class members could afford to seek legal redress for the wrongs complained of herein.

29. Plaintiff has retained counsel experienced in handling class action claims and claims involving violations of the RFDCPA and FDCPA.

30. A class action is a superior method for the fair and efficient adjudication of this controversy. Class-wide damages are essential to induce Defendant to comply with federal and California law. The interest of Class members in individually controlling the prosecution of separate claims against Defendant is small because the maximum statutory damages in an individual action for violation of privacy are minimal. Management of these claims is likely

1 to present significantly fewer difficulties than those presented in many class
2 claims.
3

4 31. Defendant has acted on grounds generally applicable to the Class,
5 thereby making appropriate final injunctive relief and corresponding declaratory
6 relief with respect to the Class as a whole.
7

8 **COUNT I: VIOLATION OF FAIR DEBT
9 COLLECTION PRACTICES ACT**

10 15 U.S.C. § 1692, *et seq.*

11 (By Plaintiff and the California Class Against All Defendants)

12 32. Plaintiff incorporates all preceding paragraphs as though fully set
13 forth herein.

14 33. Defendant's conduct violated the FDCPA in multiple ways,
15 including but not limited to:

- 16 a) Falsely representing the character, amount, or legal
17 status of Plaintiff's debt (§1692e(2)(A));
18
19 b) Falsely representing or implying that nonpayment of
20 Plaintiff's debt would result in the seizure, garnishment,
21 attachment, or sale of Plaintiff's property or wages,
22 where such action is not lawful or Defendant did not
23 intend to take such action(§1692e(4));
24
25 c) Threatening to take an action against Plaintiff that
26 cannot be legally taken or that was not actually intended
27 to be taken (§1692e(5));
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
5510
5511
5512
5513
5514
5515
5516
5517
5518
5519
5520
5521
5522
5523
5524
5525
5526
5527
5528
5529
5530
5531
5532
5533
5534
5535
5536
5537
5538
5539
55310
55311
55312
55313
55314
55315
55316
55317
55318
55319
55320
55321
55322
55323
55324
55325
55326
55327
55328
55329
55330
55331
55332
55333
55334
55335
55336
55337
55338
55339
55340
55341
55342
55343
55344
55345
55346
55347
55348
55349
55350
55351
55352
55353
55354
55355
55356
55357
55358
55359
55360
55361
55362
55363
55364
55365
55366
55367
55368
55369
55370
55371
55372
55373
55374
55375
55376
55377
55378
55379
55380
55381
55382
55383
55384
55385
55386
55387
55388
55389
55390
55391
55392
55393
55394
55395
55396
55397
55398
55399
553100
553101
553102
553103
553104
553105
553106
553107
553108
553109
553110
553111
553112
553113
553114
553115
553116
553117
553118
553119
553120
553121
553122
553123
553124
553125
553126
553127
553128
553129
553130
553131
553132
553133
553134
553135
553136
553137
553138
553139
553140
553141
553142
553143
553144
553145
553146
553147
553148
553149
553150
553151
553152
553153
553154
553155
553156
553157
553158
553159
553160
553161
553162
553163
553164
553165
553166
553167
553168
553169
553170
553171
553172
553173
553174
553175
553176
553177
553178
553179
553180
553181
553182
553183
553184
553185
553186
553187
553188
553189
553190
553191
553192
553193
553194
553195
553196
553197
553198
553199
553200
553201
553202
553203
553204
553205
553206
553207
553208
553209
553210
553211
553212
553213
553214
553215
553216
553217
553218
553219
553220
553221
553222
553223
553224
553225
553226
553227
553228
553229
553230
553231
553232
553233
553234
553235
553236
553237
553238
553239
553240
553241
553242
553243
553244
553245
553246
553247
553248
553249
553250
553251
553252
553253
553254
553255
553256
553257
553258
553259
553260
553261
553262
553263
553264
553265
553266
553267
553268
553269
553270
553271
553272
553273
553274
553275
553276
553277
553278
553279
553280
553281
553282
553283
553284
553285
553286
553287
553288
553289
553290
553291
553292
553293
553294
553295
553296
553297
553298
553299
553300
553301
553302
553303
553304
553305
553306
553307
553308
553309
553310
553311
553312
553313
553314
553315
553316
553317
553318
553319
553320
553321
553322
553323
553324
553325
553326
553327
553328
553329
553330
553331
553332
553333
553334
553335
553336
553337
553338
553339
553340
553341
553342
553343
553344
553345
553346
553347
553348
553349
553350
553351
553352
553353
553354
553355
553356
553357
553358
553359
553360
553361
553362
553363
553364
553365
553366
553367
553368
553369
553370
553371
553372
553373
553374
553375
553376
553377
553378
553379
553380
553381
553382
553383
553384
553385
553386
553387
553388
553389
553390
553391
553392
553393
553394
553395
553396
553397
553398
553399
553400
553401
553402
553403
553404
553405
553406
553407
553408
553409
553410
553411
553412
553413
553414
553415
553416
553417
553418
553419
553420
553421
553422
553423
553424
553425
553426
553427
553428
553429
553430
553431
553432
553433
553434
553435
553436
553437
553438
553439
553440
553441
553442
553443
553444
553445
553446
553447
553448
553449
553450
553451
553452
553453
553454
553455
553456
553457
553458
553459
553460
553461
553462
553463
553464
553465
553466
553467
553468
553469
553470
553471
553472
553473
553474
553475
553476
553477
553478
553479
553480
553481
553482
553483
553484
553485
553486
553487
553488
553489
553490
553491
553492
553493
553494
553495
553496
553497
553498
553499
553500
553501
553502
553503
553504
553505
553506
553507
553508
553509
553510
553511
553512
553513
553514
553515
553516
553517
553518
553519
553520
553521
553522
553523
553524
553525
553526
553527
553528
553529
553530
553531
553532
553533
553534
553535
553536
553537
553538
553539
553540
553541
553542
553543
553544
553545
553546
553547
553548
553549
553550
553551
553552
553553
553554
553555
553556
553557
553558
553559
553560
553561
553562
553563
553564
553565
553566
553567
553568
553569
553570
553571
553572
553573
553574
553575
553576
553577
553578
553579
553580
553581
553582
553583
553584
553585
553586
553587
553588
553589
553590
553591
553592
553593
553594
553595
553596
553597
553598
553599
553600
553601
553602
553603
553604
553605
553606
553607
553608
553609
553610
553611
553612
553613
553614
553615
553616
553617
553618
553619
553620
553621
553622
553623
553624
553625
553626
553627
553628
553629
553630
553631
553632
553633
553634
553635
553636
553637
553638
553639
553640
553641
553642
553643
553644
553645
553646
553647
553648
553649
553650
553651
553652
553653
553654
553655
553656
553657
553658
553659
553660
553661
553662
553663
553664
553665
553666
553667
553668
553669
553670
553671
553672
553673
553674
553675
553676
553677
553678
553679
553680
553681
553682
553683
553684
553685
553686
553687
553688
553689
553690
553691
553692
553693
553694
553695
553696
553697
553698
553699
553700
553701
553702
553703
553704
553705
553706
553707
553708
553709
553710
553711
553712
553713
553714
553715
553716
553717
553718
553719
553720
553721
553722
553723
553724
553725
553726
553727
553728
553729
553730
553731
553732
553733
553734
553735
553736
553737
553738
553739
5537340
5537341
5537342
5537343
5537344
5537345
5537346
5537347
5537348
5537349
5537350
5537351
5537352
5537353
5537354
5537355
5537356
5537357
5537358
5537359
5537360
5537361
5537362
5537363
5537364
5537365
5537366
5537367
5537368
5537369
55373610
55373611
55373612
55373613
55373614
55373615
55373616
55373617
55373618
55373619
55373620
55373621
55373622
55373623
55373624
55373625
55373626
55373627
55373628
55373629
55373630
55373631
55373632
55373633
55373634
55373635
55373636
55373637
55373638
55373639
55373640
55373641
55373642
55373643
55373644
55373645
55373646
55373647
55373648
55373649
55373650
55373651
55373652
55373653
55373654
55373655
55373656
55373657
55373658
55373659
55373660
55373661
55373662
55373663
55373664
55373665
55373666
55373667
55373668
55373669
55373670
55373671
55373672
55373673
55373674
55373675
55373676
55373677
55373678
55373679
55373680
55373681
55373682
55373683
55373684
55373685
55373686
55373687
55373688
55373689
55373690
55373691
55373692
55373693
55373694
55373695
55373696
55373697
55373698
55373699
553736100
553736101
553736102
553736103
553736104
553736105
553736106
553736107
553736108
553736109
553736110
553736111
553736112
553736113
553736114
553736115
553736116
553736117
553736118
553736119
553736120
553736121
553736122
553736123
553736124
553736125
553736126
553736127
553736128
553736129
553736130
553736131
553736132
553736133
553736134
553736135
553736136
553736137
553736138
553736139
553736140
553736141
553736142
553736143
553736144
553736145
553736146
553736147
553736148
553736149
553736150
553736151
553736152
553736153
553736154
553736155
553736156
553736157
553736158
553736159
553736160
553736161
553736162
553736163
553736164
553736165
553736166
553736167
553736168
553736169
553736170
553736171
553736172
553736173
553736174
553736175
553736176
553736177
553736178
553736179
553736180
553736181
553736182
553736183
553736184
553736185
553736186
553736187
55

- 1 e) Using unfair or unconscionable means against Plaintiff
2 in connection with an attempt to collect a debt (§
3 1692f);
- 4 f) Collecting an amount from Plaintiff that is not expressly
5 authorized by the agreement creating the debt (§
6 1692f(1)); and
- 7 g) Collecting an amount from Plaintiff that is not permitted
8 by law (§ 1692f(1)).

9 34. Plaintiff alleges that to the extent that Defendant's actions, counted
10 above, violated the FDCPA, those actions were done knowingly and willfully.

12 35. As a direct and proximate result of Defendant's violations of 15
13 U.S.C. § 1692, *et. seq.*, Plaintiff and the members of the Class have suffered
14 injury, and may recover from Defendant one thousand dollars (\$1,000.00) in
15 statutory damages in addition to actual damages and reasonable attorneys' fees
16 and costs pursuant to 15 U.S.C. § 1692k(a)(2)(A).

19 36. The violations of 15 U.S.C. § 1692, *et. seq.* described herein present
20 a continuing threat to members of the Class and members of the general public in
21 that Plaintiff is informed and believes and thereon alleges that Defendant
22 continues to engage in these practices, and will not cease doing so unless and
23 until forced to do so by this Court.

26 ///

27 ///

1 **COUNT II: VIOLATION OF ROSENTHAL**
2 **FAIR DEBT COLLECTION PRACTICES ACT**

3 Cal Civ Code § 1788, *et seq.*

4 (By Plaintiff and the Class Against All Defendants)

5 37. Plaintiff incorporates all preceding paragraphs as though fully set
6 forth herein.

7 38. *Cal. Civ. §1788.17* mandates that every debt collector collecting or
8 attempting to collect a consumer debt shall comply with the provisions of
9 Sections 1692b to 1692j, inclusive, of, and shall be subject to the remedies in
10 Section 1692k of, Title 15 of the United States Code statutory regulations
11 contained within the FDCPA, *15 U.S.C. 1692, et seq.*

12 39. Based upon the foregoing, Defendant's conduct violated the
13 RFDCPA in multiple ways, including but not limited to:

- 14 a) Falsely representing the character, amount, or legal
15 status of Plaintiff's debt (§1692e(2)(A));
16
17 b) Falsely representing that a legal proceeding has been, is
18 about to be, or will be instituted unless payment of a
19 consumer debt is made(Cal Civ Code §1788.13(j));
20
21 c) Threatening Plaintiff that nonpayment of Plaintiffs debt
22 may result in the arrest of Plaintiff or the seizure,
23 garnishment, attachment or sale of any property or the
24 garnishment or attachment of wages of Plaintiff, where
25 such action was not in fact contemplated by the debt
26 collector and permitted by the law (Cal Civ Code
27 §1788.10(e));
28
29 d) Falsely representing or implying that nonpayment of
30 Plaintiffs debt would result in the seizure, garnishment,
31 attachment, or sale of Plaintiffs property or wages,

1 where such action is not lawful or Defendant did not
2 intend to take such action(§1692e(4));

- 3 e) Threatening to take an action against Plaintiff that
4 cannot be legally taken or that was not actually intended
5 to be taken (§1692e(5));
- 6 f) Using false representations and deceptive practices in
7 connection with collection of an alleged debt from
8 Plaintiff (§ 1692e(10));
- 9 g) Using unfair or unconscionable means against Plaintiff
10 in connection with an attempt to collect a debt (§
11 1692f);
- 12 h) Collecting an amount from Plaintiff that is not expressly
13 authorized by the agreement creating the debt (§
14 1692f(1));
- 15 i) Collecting an amount from Plaintiff that is not permitted
16 by law (§ 1692f(1)); and
- 17 j) Threatening to take an action against Plaintiff that is
18 prohibited by § 1788 of the California Civil Code (Cal.
19 Civ. Code § 1788.10(e)).

21 40. Plaintiff alleges that to the extent that Defendant's actions, counted
22 above, violated the RFDCPA, those actions were done knowingly and willfully.

24 41. As a direct and proximate result of Defendant's violations of *Cal.*
25 *Civ. § 1788 et seq.*, Plaintiff and the members of the California Class have
26 suffered injury, and may recover from Defendant one thousand dollars
27 (\$1,000.00) in statutory damages in addition to actual damages and reasonable
28

attorneys' fees and costs pursuant to *Cal. Civ. § 1788.30.*

42. The violations of *Cal. Civ. § 1788 et seq.* described herein present a continuing threat to members of the California Class and members of the general public in that Plaintiff is informed and believes and thereon alleges that Defendant continues to engage in these practices, and will not cease doing so unless and until forced to do so by this Court.

43. To the extent that Defendants' actions, counted above, violated the
RFDCPA, those actions were done knowingly and willfully

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of himself, and on behalf of the members of the Plaintiff Class and California Class, prays for judgment against Defendants as follows:

- A. For an order certifying the proposed class and subclass;
 - B. For the attorneys appearing on the above caption to be named class counsel and for the named Plaintiff to be appointed class representative;
 - C. For statutory damages of \$1,000.00 for Plaintiff and each member of The Class pursuant to *15 U.S.C. § 1692k(a)(2)(A)* and *Cal. Civ. § 1788.30*;
 - D. For actual damages according to proof;

- E. For reasonable attorneys' fees and costs of suit;
 - F. For prejudgment interest at the legal rate; and
 - G. For such further relief as this Court deems necessary, just, and proper.

JURY DEMAND

Plaintiff, on behalf of himself and all other similarly situated, hereby demands a trial by jury in this case.

Respectfully submitted,

LAW OFFICES OF TODD M. FRIEDMAN, P.C.

Dated: August 29, 2014

By: s/Todd M. Friedman

Todd M. Friedman, Esq.
Adrian R. Bacon, Esq.
Attorneys for Plaintiff
and the Proposed Class